

REMARKS

Favorable reconsideration, reexamination, and allowance of the present patent application are respectfully requested in view of the foregoing amendments and the following remarks.

Personal Interview

Applicant and the undersigned wish to thank Mr. Izquierdo and Ms. McDermott for the courteous and productive interview conducted on 19 December 2006 with Applicant's local representative, Mr. Adam J. Cermak. Because Applicant was not relieved of the duty under 37 C.F.R. § 1.133(b) of providing a summary of the arguments presented during that interview, Applicant provides the following comments.

Mr. Cermak began the interview by narrowing the discussions to Claim 1, and indicated that any arguments in support of the patentability of Claim 15 *et seq.* would be done in this Amendment. Mr. Cermak then discussed a fundamental difference between the methods described in this application and those described in Published U.S. Patent Application No. 2002/0082679, invented by Sirhan *et al.* ("Sirhan"); *Sirhan* is singularly concerned with the treatment of restenosis in a patient's vasculature, concurrently with or subsequent to an interventional vascular procedure such as PTCA, and therefore understandably does not identify "vulnerable plaques" as problematic, while Applicant's claimed method requires identification of an implantation site in a blood vessel with vulnerable plaques and additional steps targeted at treatment of the vulnerable plaque. Mr. Cermak pointed to paragraphs [0003], [00017], [00032], [00038], and [00043] of this specification, where vulnerable plaques are defined and discussed, and discussed how they differ from the type of stenosis to which *Sirhan* aims his treatment protocols.

Mr. Izquierdo and Ms. McDermott agreed that the first step in Claim 1 of "identifying" is not anticipated by *Sirhan*, in light of at least this distinction.

Rejection under 35 U.S.C. § 102

In the Office Action, beginning at page 2, Claims 1, 2, 5, 7, 9, 11-16, 19, 21, 23, 25, and

26 were rejected under 35 U.S.C. § 102, as reciting subject matters that allegedly are anticipated by *Sirhan*. Applicant respectfully requests reconsideration of this rejection.

Applicant has, in the several Responses to Office Actions filed heretofore, described some aspects of the subject matters described and claimed herein, and will therefore not further burden the record with redundant summaries; those prior descriptions are merely incorporated by reference for brevity's sake.

Applicant next notes that Claims 15-26 have been cancelled. Applicant cancels these claims without disclaimer of or prejudice to the subject matters of these claims, and expressly reserves the right to file one or more Divisional and/or Continuation applications to further pursue the subject matters of these claims.

Claim 1 relates to a method for treating vulnerable plaque having a combination of steps including, *inter alia*, identifying an implantation site in a blood vessel with vulnerable plaque, wherein the implantation site is at or upstream of the vulnerable plaque. The prior art, including *Sirhan*, fails to identically disclose or describe a method including each and every steps recited in the combinations of the pending claims.

As discussed during the interview conducted on 19 December 2006, *Sirhan* is narrowly focused on treating restenosis, and does not discuss or propose to treat vulnerable plaques. *Sirhan*'s statement at his paragraph [0011] is illustrative: "[t]he present invention provides improved devices and methods for inhibiting restenosis and hyperplasia after intravascular intervention." Other passages in *Sirhan* in which he emphasizes that his disclosure is limited to the treatment of restenosis or hyperplasia after or concurrently with an intravascular interventional procedure include the following paragraphs: [0005] (defines "hyperplasia"); [0007] (delivering agents to inhibit restenosis); [0008] (discusses the need to treat restenosis and hyperplasia); [0011] (see above); [0014] (discussion of time release of drug delivery to treat hyperplasia); [0018] (identification of a treatment site as that which may be injured during or after intravascular intervention); [0020] (object is to reduce and/or inhibit restenosis); [0026] (object is to reduce the formation or progression of restenosis and/or hyperplasia); [0068] (discussion of concurrent or post-procedural delivery of drug); [0069] (discussion of timing of

drug release keyed to generation of intimal tissue); [0070] (same); [0148] (drugs selection keyed to treatment of restenosis); [0168] (description of an angioplasty procedure followed by installation of a stent 10 to deliver drug); and [0169] (discussion of concurrent or post-procedure implantation of a drug delivery device). Totally absent from *Sirhan*'s lengthy disclosure is any recognition that vulnerable plaques could or should be treated.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 1, 2, 5, 7, 9, and 11-14 are not anticipated by *Sirhan*, are therefore not unpatentable under 35 U.S.C. § 102, and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 102.

Rejection under 35 U.S.C. § 103(a)

In the Office Action, beginning at page 3, Claims 3, 4, 6, 8, 10, 17, 18, 20, 22, and 24 were rejected under 35 U.S.C. § 103(a), as reciting subject matters that allegedly are obvious, and therefore allegedly unpatentable, over *Sirhan* alone. Applicant respectfully requests reconsideration of this rejection.

As discussed during the December 19th interview and above, *Sirhan* fails to identically disclose or describe the subject matter of Claim 1 *et seq.* *Sirhan* also fails to render the claimed methods obvious, because there is no motivation to make up for the deficiencies of *Sirhan* with respect to the claimed combinations. Nowhere in the record does any of the prior art recognize that the treatment of vulnerable plaques is possible or desirable. Therefore, Applicant respectfully submits that a person of ordinary skill in the art, at the time of Applicant's invention, would find no motivation to modify *Sirhan*'s methods of dealing with restenosis and hyperplasia, to instead attempt to treat vulnerable plaques as recited in the claims.

For at least the foregoing reasons, Applicant respectfully submits that the subject matters of Claims 3, 4, 6, 8, and 10, each taken as a whole, would not have been obvious to one of ordinary skill in the art at the time of Applicant's invention, are therefore not unpatentable under 35 U.S.C. § 103(a), and therefore respectfully requests withdrawal of the rejection thereof under 35 U.S.C. § 103(a).

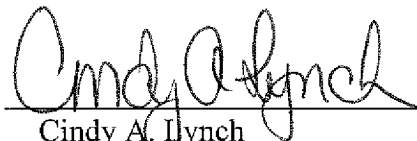
Conclusion

Applicant respectfully submits that this patent application is in condition for allowance. An early indication of the allowability of this application is therefore respectfully solicited.

If Mr. Izquierdo the patent examiner believes that a telephone conference with the undersigned would expedite passage of this patent application to issue, he is invited to call on the number below.

It is not believed that extensions of time are required, beyond those that may otherwise be provided for in accompanying documents. If, however, additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and the Commissioner is hereby authorized to charge fees necessitated by this paper, and to credit all refunds and overpayments, to our Deposit Account 50-3100.

Respectfully submitted,

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